

1 Cody B. West
2 4316 Blushing Meadows Road
3 North Las Vegas, NV 89031
4 Telephone (702) 575-2532
5 Plaintiff in Proper Person

✓ FILED
U.S. DISTRICT COURT
CLERK'S OFFICE
Nevada
2011 JUL -8 AM 10:59
RECEIVED
CLERK'S OFFICE
U.S. DISTRICT COURT
Nevada
2011 JUL -8 AM 10:59
RECEIVED
CLERK'S OFFICE
U.S. DISTRICT COURT
Nevada

2011 JUL -8 AM 10:59

6
7 UNITED STATES DISTRICT COURT
8 District of Nevada

9 CODY B. WEST

10 PLAINTIFF

11 vs.

12 BANK OF AMERICA, N.A. and

13 BANK OF AMERICA HOME LOANS and

14 BAC HOME LOANS SERVICING LP and

15 RECONTRUST COMPANY and

16 MERS - Mortgage Electronic Registration

17 Systems

18 DEFENDANTS

} Case No.: 2:10-cv-01950-GMN-LRL
} PLAINTIFF'S REPLY TO DEFENDANTS
} OPPOSITION TO MOTION TO COMPEL
} ANSWERS TO INTERROGATORIES AND
} ADMISSIONS

19 Plaintiff, Cody B. West, in proper person, and files his Reply to Defendants Bank of America
20 N.A., Bank of America Home Loans, BAC Home Loans Servicing, LP, ReconTrust Company, N.A., and
21 MERS - Mortgage Electronic Registration Systems, collectively Defendants, Opposition to Motion to
22 Compel Answers to Interrogatories and Admissions. This Reply is based on the pleadings and papers
23 filed herein, the Memorandum of Points and Authorities, and any oral argument this Court wishes to
24 entertain.

25 MEMORANDUM OF POINTS AND AUTHORITIES

26 INTRODUCTION

27 Defendants' Opposition to the Motion recites failure on the part of the Plaintiff to meet and confer
28 with Defendants' counsel regarding the Interrogatories and Admissions delivered to them on May 26,

1 2011. **First**, Plaintiff appears without counsel, is not schooled in the law and legal procedures, and is not
2 licensed to practice law. It is apparent throughout all the pleadings filed by Defendants and their tardiness
3 in responding to the Discovery Scheduling Order by this court dated April 11, 2011 that they have a total
4 disregard and even a biased opinion about the Plaintiff representing himself in this case. Defendants did
5 not attempt to contact Plaintiff and simply sent a letter dated June 9, 2011 stating that they are not
6 required to respond to any of the written discovery requests. Defendants' counsel admits to receiving the
7 written discovery requests on May 26, 2011 before the cut-off date of June 1, 2011. **Second**, Defendants
8 now make the excuse that the requests are improper relevant to the allegations and claims made in his
9 Complaint (see Opposition 2:5-8) and is the reason for their refusal to respond. The truth is they cannot
10 respond because to do so would indeed support Plaintiff's Complaint and Amended Complaint. Plaintiff's
11 Motion is with merit and should be approved by this Court for the just adjudication of this case.
12 Defendants Opposition should be denied.

13 **BACKGROUND**

14 Once again, Defendants are confused about the Complaint filed against them. The Action is
15 clearly stated in the Amended Complaint: "Moreover, the bank has threatened to take away the family
16 home by foreclosure unless the family continues to pay the debt. The family is thus forced to bring this
17 action in order to 1) prevent double paying this bank on the debt and/or 2) pay the wrong party, and/or 3)
18 prevent the wrongful taking of the family home by a bank no longer having a right to foreclose on it."
19 (see Amended Complaint 1:25-28 and 2:1-9). Yet Defendants continue to argue the evidence and not the
20 issue. Plaintiff believes that the Interrogatories and Admissions are within the scope of his Complaint
21 and Defendants should be required to answer them.

22 Secondly, Plaintiff's Motion is timely as it was filed on June 13, 2011 well before the July 1st
23 date cited for filing of Motions in the Scheduling Order (Dkt. 27). And the written discovery requests
24 were indeed sent and received by Defendants' counsel BEFORE the discovery cut-off (see Opposition
25 3:1-4). Moreover, Defendants themselves did not timely file their initial disclosures to Plaintiff as
26 ordered by this Court. Plaintiff provided his initial disclosures to Defendants' counsel on April 12, 2011
27 yet Defendants did not provide theirs until May 19, 2011, along with a CD of over 1,000 pages, including
28 documents that are not in support of their claim of ownership of the mortgage loan in question.

LEGAL ARGUMENT

Plaintiff asks this Honorable Court to take judicial notice of the fact that I appear without counsel, am not schooled in the law and legal procedures, and am not licensed to practice law. Therefore my pleadings must be read and construed liberally. Further Plaintiff believes that this Court has a responsibility and legal duty to protect any and all of the Plaintiff's Constitutional and statutory rights; specifically by the due process clause of the Fifth and Fourteenth Amendment thereto, which invokes the due process clauses of the Seventh, Fifth and Fourteenth Amendments to said Constitution upon the States and guarantees to all private citizens the freedom of private property and the separate and, distinct common law jurisdiction of this Court, in accord with the rules of common law related to fiduciary duties.

ARGUMENT

Meet And Confer Requirement

To attempt to meet and confer with Defendants after receiving their refusal would have been a worthless effort that would have resulted in Plaintiff filing the same Motion to Compel Answers.

Plaintiff Seeks Discovery On Claims Not Included In His Complaint

The Complaint and the Amended Complaint are clear as to the reason this Action is before this Court. Defendants cannot show ownership of the alleged Mortgage which is the paramount fundamental issue in this case. Defendants refusal to answer the written discovery requests based on claims not raised in the Complaint is false. The documents requested, the location of those documents, and the identification of the signers of documents filed of public record are imperative to show ownership of the alleged Mortgage and who has the rights to the subject property conferred under the documents filed. Moreover, Defendants did not identify the name, address, title and background information of the supposed Witnesses set forth in their initial disclosures to Plaintiff as required by Fed. Rules of Civ. Proc.

26. The fact is they cannot respond because to do so would support all claims made by Plaintiff in his Complaint. Defendants wrongfully assume the Complaint was to challenge a non-judicial foreclosure. They obviously have not read the Complaint and continue to be confused about the reason for this Action before this Court - to determine ownership of the alleged mortgage.

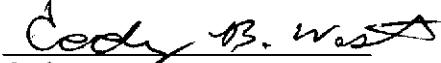
CONCLUSION

Plaintiff served upon Defendants Interrogatories and Admissions on May 26, 2011 and

1 Defendants refused to respond based upon their contention that the requests were untimely and now
2 through their Opposition, that the discovery requested regards claims not raised in Plaintiff's Complaint.
3 Defendants do not want to answer the written discovery requests no matter when they would have been
4 sent. They argue the evidence which provided Plaintiff the conclusion that they cannot prove their claim
5 of ownership on the alleged mortgages and the subject property. Defendants Opposition should be denied
6 in its entirety and this court should enter an order directing and requiring Defendants to answer all of the
7 admissions and interrogatories under oath, and if necessary, extend the time of discovery to compel
8 Defendants to answer the written requests.

9

10 Dated this 8 day of July, 2011.

11 
12 Cody B. West
13 Plaintiff
In Proper Person

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

I, Cody B. West, hereby certifies that a copy of the Plaintiff's Reply To Defendants Opposition To Motion To Compel Answers To Interrogatories And Admissions filed on the 8 day of July, 2011, in the above-entitled case was mailed by me on July 9, 2011 by depositing copies thereof in a sealed envelope, first-class postage prepaid, in the United States mail, to

Christine M. Parvan, Esq.
Ariel E. Stern, Esq.
Akerman Senterfitt LLP
400 South Fourth Street, Suite 450
Las Vegas, NV 89101

Bank of America, N.A.
Brian Maynihan, President, CEO
100 N. Tyron St.
Charlotte, NC 28263

Bank of America Home Loans
Barbara J. Desoer, President
333 So. Hope
Los Angeles, CA 90072-1406

**BAC Home Loans Servicing, LP
400 National Way
Simi Valley, CA 93065-6285**

**Recontrust Company
2380 Performance Drive
Building C
Mail Stop TX2-984-04-07
Richardson, TX 75082**

MERS - Mortgage Electronic Registration Systems
RK Arnold, President CEO
1818 Library Street, Suite 300
Reston, VA 20190

Dated: July 9, 2011

Cody B. West
Plaintiff
In Proper Person